Division Bench

C.S. 100/-

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 491 /2005

PETITIONER

Forum for Fact Finding Documentation and Advocacy, Raipur [C.G.]
Through :- its President, Subash Mohapatra S/o Jalandhar Mohapatra, aged about 31 years, R/o A-3, Sahani Vihar, Telibandha, Raipur [C.G.]

VERSUS

RESPONDENTS

1] Union of India,
Through – Secretary,
Home Affairs Department,
New Delhi.

2] State of Chhattisgarh,
Through- Secretary,

[I] Home Department,
D.K.S. Bhavan, Raipur.

[II] Health Department
D.K.S. Bhavan, Raipur.

3] Superintendent,
Dr. Bhim Rao Ambedkar, Hospital [Mekahara], Raipur Chhattisgarh.

4] Police Station House Officer,
Police Station 'Mana'
Raipur [C.G.]

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THAKUR VIJAY SINGH
Sr. Cont. Govt. Standing Counsel
CHHATTISGARH HIGH COURT

P.R. No. 519/05
Presented by Shri Rajeev Shrivastava
dated 09-02-05

PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA.
[PUBLIC INTEREST LITIGATION]

XI-HC-22

(59)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**आदेश पत्रक**

**मामला क्रमांक** WP 491/05 **सन्** ~~200~~

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**DIVISION BENCH :**

**HON'BLE SHRI FAKHRUDDIN, J &**
**HON'BLE SHRI DHIRENDRA MISHRA, J.**

**04 /03/2005**

Smt. Meena Shastri, counsel for the petitioner.

Shri Prashant Mishra, Addl. Advocate General, appears for the respondents.

Heard.

The petitioner has filed this petition styling as Public Interest Litigation on the ground that a six year old female child was subjected to sexual assault by her neighbour aged 33 years in the month of December 2004. The incident was brought to the notice of her grand mother on 1st February 2005 who thereon filed the First Information Report in Police Station Mana, Raipur but the copy of the same was not supplied to the first informant and medical examination of the prosecutrix was also not conducted promptly.

Counsel appearing for the petitioner has also taken a ground that the prosecutrix is still suffering from infection in her private parts and the perpetrators of the offence are threatening the family members of the prosecutrix to withdraw the report against the accused, who has not yet been arrested.

(पीछे देखिये)

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**आदेश पत्रक**

**मामला क्रमांक** W.P. 491/05 **सन्** **200**

..... **विरुद्ध** .....

60

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित —2— | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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On 11/02/2005, the matter was taken up on mention being made and the State was directed to provide proper treatment to the prosecutrix and the matter was adjourned to 15/02/2005 and on that day it was pointed out by the Additional Advocate General that Crime No. 07/2005 has been registered against the accused and he has been arrested. He has also assured that the victim would be properly taken care of by the authorities and she would be thoroughly checked up and best possible treatment would be provided to her. He had also assured of giving due protection to the prosecutrix and her family members. In compliance of the order dated 15/02/2005, the compliance report has been filed which is taken on record. Copy of the compliance report has also been provided to the counsel for the petitioner on 24/02/2005. In the said report it is stated that the prosecutrix was medically examined on 03/02/2005 and medical report is Annexure R-2. The doctor who examined the prosecutrix opined that possibility of sexual intercourse cannot be ruled out. It has also been submitted that the Juvenile Justice Board has been reconstituted vide notification dated 20/05/2003 as per Annexure R-3 and the investigation of Crime No. 07/2005 is going on and the charge sheet shall be submitted before the competent Court. It is also submitted by the Addl. Advocate General that as per the direction of this Court, the concerned T.I. personally visited the house of the victim and at that time the prosecutrix had gone to attend the school. Later on grand mother of the prosecutrix herself came to the concerned Police Station and informed that the

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**मामला क्रमांक** ...WP 491/05... **सन्** **200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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prosecutrix is perfectly alright and healthy and she does not need any medical attention. It is further submitted that the regular police patrolling is being done near the house of the victim to provide protection to the victim and her family members and no report of harassment or threatening by the accused who is in jail or his family members, has been made by the grant mother of the victim.

The above submissions made by the Addl. Advocate General are not disputed by the counsel for the petitioner. However, counsel for the petitioner submits that by the instant petition a larger issue has been raised regarding the delay in lodging the FIR and generally the procedure prescribed under Section 154 of the Cr.P.C. is not followed and medical examination report and the copy of the FIR are not given to the victim of sexual assault which they are entitled to.

Learned counsel for the respondents submits that as and when any complaint of non lodging of the report is brought to the notice of the higher authorities, action is promptly taken. In this case also, FIR was lodged though the incident was reported after more than a month and on the basis of the said FIR principal accused has been taken into custody and the investigation is going on.

The compliance report has already been submitted which is taken on record. The relevant portion of the compliance report reads thus:

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..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -4- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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"That in pursuance to the order passed by this Hon'ble Court the Town Inspector of Mana Camp Police Station Shri J.P. Dubey had personally visited the house of the victim however she had gone to attend school namely Kanya Vidyalaya Mana Camp. Later on her grand mother came to the Police Station and informed that her daughter Nupur does not need any medical attention as she is perfectly all right / healthy and is attending school. Her mother categorically stated that she does not need any medical assistance at present.

That regular patrolling is being done near and around the house of the victim every morning and evening to provide protection. The grand mother of the victim has not reported any event or incident of harassment by the accused who is in jail or by the family members / friends of the accused.

It is submitted that due care and protection shall be provided to the victim and the charge sheet shall be submitted against the accused within the stipulated time."

Thus from the compliance report submitted by the respondents it is clear that the victim has become healthy and started going to school and that Police patrolling is being regularly done so as to provide protection to the victim and to her grand mother. Report also shows that the grand mother of the victim has not reported any incident of harassment by the accused who is in jail or his family members.

Let a copy of the FIR and the injury report be supplied to the grand mother of the victim and also to the petitioner. After challan is filed in the Court, copy of the same be made available to the petitioner as also to the

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..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -5- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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grand mother of the victim. Copy of the challan be also Sent supplied to the Additional Registrar (J) of this Court.

Having heard counsel for the parties and considered the fact that since the accused has already been arrested, investigation is going on, medical treatment has been given to the victim and security to the victim and her family members has been ensured, we are of the view that no useful purpose shall be served in keeping this petition pending.

With the observations and directions made above the petition is disposed of.

Sd/-
Fakhruddin
Judge

Sd/-
Dhirendra Mishra
Judge

(पीछे देखिये)

Received
16/3/05